UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION

JEFFREY A. HARKER,)
Plaintiff,)
v.) No. 1:14-CV-00005-AG
JOHN JORDAN, T.C. STEVENS, JAMES MULCAHY and RUTH ANN DICKERSON,)))
in their individual and official capacities,	
Defendants.)

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO LIFT STAY

Plaintiff Jeffrey A. Harker ("Plaintiff") submits the following response to Defendants' Motion to Lift Stay:

- 1. On May 24, 2016, this Court entered an order staying these proceedings pending the resolution of *Simpson v. County of Cape Girardeau*, No. 1:14-cv-00013. Doc. 69. The parties stipulated that they would abide by that decision and would not attempt to distinguish the Simpson ruling from the case at bar. Doc. 68.
- 2. On August 16, 2016, Judge Jackson entered judgment against the plaintiff in *Simpson*.
- 3. Based on the undersigned counsel's conversations with plaintiff's counsel in the *Simpson* case, it is Plaintiff's understanding that the *Simpson* plaintiff may pursue an appeal of the judgment in that case. Barring the filing of any pre-appeal motions for reconsideration that would extend the time for appeal (*see* Fed. R. App. P. 4(A)(vi)), the deadline for an appeal in the *Simpson* case will run in approximately two weeks.

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4. To avoid a multiplicity of litigation, Plaintiff requests that the Court continue the

current stay until any appeal in Simpson has run its course or until the deadline to appeal in

Simpson has passed without the plaintiff's filing of a notice of appeal.

Plaintiff is no longer a pretrial detainee at Cape Girardeau County Jail. If the

Court continues the current stay in these proceedings, Defendants will not suffer any prejudice in

light of the existing judgment in Simpson, although the reversal of the Simpson judgment on

appeal would affect the substantial rights of Plaintiff in this action.

CONCLUSION

Plaintiff Jeffrey A. Harker respectfully requests that the Court deny Defendants' Motion

to Lift Stay and maintain the current stay pending the resolution of any appeal in the Simpson

action.

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Dated: August 31, 2016

Respectfully submitted,

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By: /s/ *Jonathan B. Potts*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on all counsel of record by operation of the Court's CM/ECF system this 31st day of August, 2016.

/s/ Jonathan B. Potts